



House
Legislative
Analysis
Section

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REGULATE LIMOUSINE SERVICE PROVIDERS

House Bill 4661 as passed by the House
Second Analysis (8-14-90)

Sponsor: Rep. Curtis Hertel
House Committee: Transportation
Senate Committee: State Affairs, Tourism &
Transportation

THE APPARENT PROBLEM:

Public Act 233 of 1989 made general amendments to the Motor Bus Transportation Act, which regulates those who operate motor vehicles used to transport more than ten passengers for hire intra-and inter-state. The act generally regulates persons who operate charter buses for hire, but also regulates those who provide limousine service if their vehicles can carry more than ten passengers. Many limousine operators, however, use vehicles which hold fewer than ten passengers and as such generally do not fall within the confines of the act. The Department of Transportation estimates there are currently over 200 limousine service companies now operating in the state, which together operate over 1,200 vehicles. Standards that limousines and their operators must meet vary from one area to another; for instance, many insurance companies will not even insure limousines, while the few who will have minimum liability insurance requirements which exceed state standards. (The state requires a minimum of \$300,000 or \$500,000 of liability insurance on a limousine depending on a vehicle's passenger capacity; insurance companies often require at least \$1 million in liability insurance coverage. The City of Detroit, on the other hand, requires a minimum of \$1.5 million liability insurance for each limousine licensed to operate in its boundaries.) Some feel legislation is needed to specify minimum state requirements for limousine operators and their vehicles, to ensure that all limousines operated in the state are annually inspected to ensure their safety, and to establish fees for limousine operators to help pay for inspecting limousines and regulating limousine servicers.

THE CONTENT OF THE BILL:

House Bill 4661 would create the Limousine Transportation Act to regulate persons who transport passengers by limousine and would prohibit the operation of a limousine unless the vehicle was operated in accordance with the bill. A "limousine" would be defined as a self-propelled motor vehicle for carrying passengers and their baggage for hire, with a seating capacity of fifteen passengers or less (including the driver). The definition would not include vehicles with a passenger capacity of 15 or less used to transport an employer's workers to and from their place of employment. Persons that leased a limousine to any other person for the transportation of passengers for hire would be required to inform any person leasing the vehicle of the requirements of the bill on the motor vehicle lease agreement.

Exemptions. The bill would exempt entities that were incorporated under county, city, township, or village authorities from requirements of the bill. The bill would also exempt authorities incorporated under the Metropolitan Transportation Authorities Act and the Public Transportation Authority Act. Authorities financing public improvements to

transportation systems under the Revenue Bond Act, certain taxis and taxicabs, and entities only operating limousines to provide the transportation of passengers for funerals would be exempt from the bill. Also, entities that only operated within the boundaries of a municipality that had its own safety inspection and insurance requirements would be exempt from the bill. Limousine servicers exempt under the bill would be required to operate under the requirements of the bill when they were operating outside of the political subdivisions permitted by the authorizing statute or the contract required by the authorizing statute.

Applications for certificates of authority. A person regulated under the bill could not operate a limousine on a public highway without first having obtained a "certificate of authority" from the Department of Transportation. An applicant for an original certificate would pay the department a filing fee of \$300 and a fee of \$175 for each limousine that would be used by the carrier to provide transportation for hire. The department would issue, without a hearing, the certificate authorizing a person to transport passengers by limousine subject to departmental jurisdiction, if the department found the applicant was fit, willing, and able to provide services authorized by, and to comply with, the bill.

In determining the fitness, willingness, and ability of an applicant the department would consider all of the following before issuing a certificate:

- the applicant's safety record;
- whether the character and condition of each limousine was such that it could be operated upon public roadways, based on a safety inspection required by the bill. Any limousine that could not pass the required departmental safety inspection could not be operated on public roadways; and
- the applicant's financial ability to provide continuous insurance coverage and to have adequate financial resources in order to pay for damage claims against the applicant.

A county, city, village, or township that had adopted a local ordinance to regulate limousines or a limo carrier within its corporate limits could perform the safety inspection required by the bill upon the request of the limo carrier. This inspection would have to meet or exceed the requirements and standards of the department safety inspection. A limo carrier who had a safety inspection performed by a municipality could receive a certificate by providing the department with a copy of the safety inspection report and by meeting the insurance requirements of the bill.

The department would approve or deny an application for a certificate within 90 days after the complete application was filed with the department. If the department denied an application, it would notify the applicant in writing of

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the reason or reasons for the denial, and the applicant would have 30 days from the date of the denial to correct any deficiency and reapply without payment of an additional fee.

Liability Insurance. An applicant would have to acquire the following insurance coverage for acts or omissions of the applicant as a limo carrier of passengers, and would have to maintain this insurance coverage as a condition of maintaining a certificate of authority:

- for limousines with seating capacity of one to nine passengers including the driver, bodily injury and property damage liability insurance with a minimum combined single limit of \$1 million for all persons injured or for property damaged;
- for limousines seating 10 to 15 passengers including the driver, a minimum combined single limit of \$2 million liability insurance (for all persons and their property); and
- personal protection insurance and property protection insurance as required by the Insurance Code.

An applicant that did not satisfy both requirements for liability insurance coverage for passengers and their property could not be issued a certificate of authority to provide limousine transportation service.

Certificate Renewal. All certificates allowing their holders to provide transportation service granted by the department would be annually terminated on the last day of February unless renewed on or before that date with payment of the proper fees. A certificate holder who was delinquent in payment of fees would have his or her certificate canceled and revoked on or after March 1 of the year for which renewal should have been made, the carrier would be prohibited from operating any of its vehicles in the state, and all privileges that had been granted the carrier under the certificate would cease.

Safety Inspection. The bill would require each certificate holder to have each of its limousines inspected annually by a licensed mechanic or a motor vehicle repair facility which was registered under the Motor Vehicle Service and Repair Act. The department would promulgate rules regarding standardized forms to be used by all mechanics that performed such inspections, and these would have to be provided upon request to limousine carriers or mechanics; each form would have to be completed and signed by the mechanic. The department would notify the secretary of state if it suspected that a mechanic who performed inspections under the bill had committed fraud, misrepresentation, trickery, or deceit related to an inspection. Each limousine would be required to pass the safety inspection which met the department's specifications for safe operating character and condition for certification renewal. A limousine that failed to pass a required safety inspection could not be operated in the state.

Change to Certificate of Authority. Upon application and filing of a \$25 fee, the department could grant any change to a certificate holder's certificate if the department determined the carrier met the bill's provisions for safety and insurance coverage. A motor carrier could apply for discontinuance of its regular route service upon payment of the \$25 fee required for a change to a certificate and publishing of the notice of application to discontinue service for two days in a newspaper of general circulation in each county to which the service proposed to be discontinued applied. A certificate holder, however, could not abandon or discontinue service without departmental approval. If a certificate holder discontinued service for more than 10 days without previous departmental approval, the carrier's

certificate would be considered revoked without any further action by the department. Also, if a certificate holder's insurance was canceled for any reason, the carrier's certificate would be considered revoked without any further departmental action.

Enforcement provisions. The department could use any and all available legal and equitable remedies of a civil nature to enforce provisions of the bill, or of rules promulgated pursuant to the bill. The department could employ experts, assistants, inspectors, and other personnel as were necessary, subject to civil service rules, to permit it to administer and enforce the bill. A department employee could not ask or receive any fee from a person for the taking of acknowledgments or any other service. State and local police officers would be required to enforce the bill, and peace officers would have to arrest, on sight or upon warrant, any person found violating or having violated a provision of, or a rule promulgated under, the bill. The bill would require the attorney general's office and the prosecuting attorneys of the counties of the state to prosecute all violations of the bill. Further, a violation could be prosecuted in any jurisdiction in or through which a limousine implicated in a violation was present at the time of violation.

Penalties, fines. Under the bill, a certified carrier, or an officer or agent of the carrier, who required or permitted a person to operate a limousine in violation of the bill would be guilty of a misdemeanor, and could be punished by a fine of not more than \$500 or by imprisonment for up to 90 days, or both. Each person subject to the bill who operated a limousine service without first having obtained a certificate of authority or having met the bill's insurance requirements would be subject to a fine of not more than \$500, where each violation would constitute a separate offense.

The department could alter, suspend, or revoke a certificate issued under the bill if it determined in a contested case hearing held pursuant to the Administrative Procedures Act that a person to whom a certificate had been issued had willfully violated or refused to comply with the bill. A person could not violate or evade the provisions of the bill through any device or arrangement. The department could promulgate rules to implement the bill pursuant to the Administrative Procedures Act.

FISCAL IMPLICATIONS:

According to the Department of Transportation, the bill would generate an undetermined amount of additional revenue for the department. Revenues from fees would be used to pay for limousine inspections by three state inspectors, and for regulating certificate holders. MDOT estimates there are approximately 200 limousine companies in the state which operate about 1,200 vehicles. Using these figures, the bill would generate at least \$60,000 in the first year after its implementation from the \$300 initial certification fee. Additional revenue from state inspection fees could not be determined as the bill would allow for limousine servicers to get private inspections or state inspections. Also, as the bill does not specify a ceiling for what private inspectors could charge licensees for inspections, limousine servicers who were privately inspected could be subject to different fees (either higher or lower) than those required by state inspections. (7-30-90)

ARGUMENTS:

For:

The growth of the limousine service industry in Michigan over the last five years necessitates that the state provide guidelines for limousine servicers and their vehicles. While the Motor Bus Transportation Act covers larger limousines, smaller vehicles (capable of holding only nine passengers or less) generally are not regulated at the state level. Some municipalities (Detroit, for instance) do regulate limousine servicers and provide guidelines relative to minimum insurance requirements and vehicle safety inspections. All limousine operators in the state currently must have at least \$300,000 liability insurance coverage for each limousine operated, but those insurance companies who will insure limousine servicers often require more coverage. The bill would provide higher minimum insurance requirements and various other standards for all limousine operators in the state, and would specifically require that each limousine meet minimum safety requirements. Under the bill, MDOT could promulgate rules to implement the bill's provisions relative to vehicle safety and determining the classification of limousines for insurance purposes. Fees proposed in the bill would help pay for MDOT vehicle inspectors and for regulation of limousine servicers. The bill, however, would exempt persons from having to get state inspection if they got a local government inspection of their vehicles which met minimum state standards. Also, various local transportation authorities would be entirely exempt from the bill's provisions.

Against:

The \$175 fee per vehicle proposed in the bill is too high. This fee apparently was chosen arbitrarily by MDOT to cover what it believes its costs will be under the bill. If nothing else, the bill should at least provide for legislative review of the fee structure and the department's ability to carry out its duties using this fee after a specific time period, perhaps one year after the bill became law. The bill's fees and minimum insurance requirements could be too excessive for some smaller companies and could end up putting them out of business.

Response: The fee structure proposed in the bill, in fact, may be lower for some limousine operators, especially for those operating in the Detroit area, than what they're paying currently. According to a spokesperson from one limousine service company that operates in the Detroit area, annual "licensing" fees for each vehicle are about \$500 (not including insurance). Under the bill, a person would pay an annual certification fee of \$300 and \$175 for each vehicle, assuming the bill's other requirements were met. In any case, a person could opt to have an inspection done by the local government (as long as the inspection meets minimum state standards) and pay only \$5 for the state to review a copy of the inspection report. The bill's fee structure seems reasonable.

Against:

As passed by the House, the bill would require licensees to have an inspection done by "a licensed mechanic or a motor vehicle repair facility" but does not limit private inspectors in what they could charge for such inspections. Licensees, thus, would be subject to the whims of private inspectors — who could require vehicles to have multiple inspections and then charge exorbitant fees. Also, provisions regarding annual certificate renewal and yearly fees are confusing; the bill fails to clearly tie the requirement for licensure to having regular inspections and paying annual fees.

Against:

While most agree with the general thrust of the bill, some people feel there are questions within the limousine industry that must be answered before legislation should be adopted. For instance, MDOT will determine whether a limousine should be insured for \$1 million or \$2 million based on a vehicle's seating capacity. Some, however, feel the determination should instead be based on a vehicle's gross vehicle weight capacity. In fact, according to data from the National Highway Traffic Safety Administration, the longer "stretch" limousines are potentially more dangerous than shorter ones as a larger amount of weight rests between a longer wheel base. A spokesperson from one limousine manufacturer says it no longer builds the longer vehicles for this very reason. More data should be reviewed relative to limousine safety before the state adopts laws it may regret later.

POSITIONS:

The following support the concept of the bill, but feel the \$175 per vehicle fee is too high:

All-Time Limousine, Inc. of Southfield (8-14-90)

The Michigan Limousine Operators Association (8-14-90)

Summit Limousine of Livonia (8-14-90)

Koratkin, Schlesinger and Associates, Inc., an insurance agency in Southfield, supports the concept of the bill but feels the \$2 million liability insurance requirement for larger limousines is excessive, and that the bill's provisions specifying two different types of limousines — based on passenger capacity — could be problematic for insurers of limousine servicers. (1-24-90)

Executive Coach Builders of Plymouth, which manufactures limousines, supports the concept of the bill but feels a vehicle's gross vehicle weight capacity (rather than passenger capacity) should be the determining factor in classifying limousines according to minimum insurance requirements. (1-24-90)

The Department of Transportation opposes the bill. (7-30-90)